

# FINAL BILL REPORT

## ESHB 1287

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Synopsis as Enacted

**Brief Description:** Subjecting federally recognized Indian tribes to the same conditions as state and local governments for property owned exclusively by the tribe.

**Sponsors:** House Committee on Community Development, Housing & Tribal Affairs (originally sponsored by Representatives Appleton, Dahlquist, Hurst, McCoy, Ryu, Santos and Pollet).

**House Committee on Community Development and Housing & Tribal Affairs**  
**House Committee on Finance**  
**Senate Committee on Ways & Means**

### **Background:**

#### Public-Owned Property Tax Exemption.

Real and personal property in the state are subject to a property tax. The state Constitution exempts property owned by federal, state, or local governments from property tax obligations. The Legislature may exempt other property from taxation by statute.

#### Leasehold Excise Tax.

The Legislature exempts a private leasehold interest in government-owned tax-exempt property from property tax. In lieu of a property tax, however, the leasehold interest may be subject to a leasehold excise tax on the possession and use of the property. This excise tax is assessed on the contract rent for the leasehold.

Certain leasehold interests are exempt from the excise tax. A leasehold interest in property that is held in trust for a tribe by the United States is exempt from the excise tax, as long as the contract rent for the leasehold is at least 90 percent of the fair market rental.

#### Tribal-Owned Property Tax Exemption.

State law also exempts all property belonging exclusively to a federally recognized Indian tribe from state taxation if the property is used exclusively for essential governmental services. Essential governmental services include tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services. Federal law generally prohibits state taxation of tribes or tribal members on their reservation.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

### Public Property Sold on Contract.

Real property sold on contract by the federal, state, or local government that entitles the vendee to possess and use the property in compliance with the terms of the contract must be assessed and taxed as if the property were privately owned. The title retained by the government body is deemed only as a security for the fulfillment of the contract although no foreclosure for delinquent taxes may affect the title retained by the government body.

### Fire Protection Districts.

Fire protection districts (fire districts) are municipal corporations that are authorized to provide fire prevention, fire suppression, and emergency medical services to protect life and property.

The fire districts finance their activities and facilities by imposing regular property taxes, excess voter-approved property tax levies, and benefit charges. A regional fire protection service authority is made up of two or more adjacent fire protection jurisdictions.

### **Summary:**

#### Tribal Property Tax Exemption: Leasehold Excise Tax.

A private leasehold interest in tax-exempt property owned by a federally recognized Indian tribe is exempt from property taxes. A private leasehold interest in tax-exempt tribal property is subject to a leasehold excise tax.

Economic development is recognized as an essential government service for purposes of qualifying tribally-owned property for tax-exempt status, if the property was owned by the tribe prior to March 1, 2014.

#### Payment in Lieu of Taxes.

A tribe that owns property exempt from tax under state law must make a payment in lieu of tax (PILT) if:

- the property is used exclusively for economic development;
- there is no taxable leasehold interest in the property;
- the property is outside of the tribe's reservation; and
- the property is not otherwise tax exempt under federal law.

The county where the property is located and the tribe must jointly determine the PILT amount through good faith negotiation. The amount may not exceed the leasehold excise tax that would apply if there were a leasehold interest in the property. The Department of Revenue (DOR) may determine the PILT rate if the tribe and county cannot agree on the terms.

The tribe must pay the county and the county must distribute payment solely to the local taxing districts, including cities, in the same proportion that each district would have shared if a leasehold excise tax had been levied.

A tribe must file an application with the DOR in order to qualify for the property tax exemption. If the exemption is based on use for economic development, the tribe must file an annual renewal for the exemption to continue. For tax exempt property subject to the

PILT, an application must include a declaration from the tribe and county confirming that an agreement has been made on the payment amount.

Tribal Property Sold on Contract.

Property sold on contract by a federally recognized tribe that entitles the vendee to possess and use the property in compliance with the terms of the contract must be assessed and taxed as if the property were privately owned.

Joint Legislative Audit and Review Committee Report.

The Joint Legislative Audit and Review Committee (JLARC) must conduct a six-year study and provide a report to the Legislature by 2020 that evaluates the economic impact of the effects of the leasehold excise tax and tax exemptions authorized under the act. The report must indicate:

- the number of parcels and uses of land involved;
- the economic impact to tribal, state, and local government revenue changes and shifts;
- the impact on public infrastructure and public services;
- the impact on business investment and competition;
- a description of the types of business activities affected;
- impacts on jobs; and
- other data that the JLARC deems necessary in determining the economic impact.

Fire Protection Districts.

A fire protection district or regional fire protection service authority may contract for services with a tribe that owns tax exempt property within the boundaries of the district or authority.

The act expires in 2022.

**Votes on Final Passage:**

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|--------|----|----|-------------------|
| House  | 64 | 29 |                   |
| Senate | 29 | 15 | (Senate amended)  |
| House  | 63 | 34 |                   |
| Senate | 37 | 12 | (Senate amended)  |
| House  | 61 | 37 | (House concurred) |

**Effective:** June 12, 2014